

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

NELSON AYALA; JENNIFER GARCIA

Plaintiffs

v.

**KIA MOTOR CORPORATION; HYUNDAI
MOTOR COMPANY; JOHN DOE; JANE
DOE; FOREING COMPANIES A,B and C**

Defendants

CIVIL NO.: 19-1150

**PRODUCT LIABILITY
JURY DEMAND**

COMPLAINT

TO THE HONORABLE COURT:

COME now **PLAINTIFFS**, through the subscribing attorneys who very respectfully
STATE, ALLEGE and PRAY:

I. INTRODUCTION

1. This is a civil action for product liability that resulted in the tragic death of minor Joshua Méndez García, while the vehicle KIA RIO, 2016, VIN#KNADM4A36G6657184, was caught on fire on February 17, 2018. Minor Joshua Méndez García died calcinated inside the vehicle.

II. JURISDICTION AND VENUE

2. This Honorable Court has jurisdiction over the present case by virtue of diversity of citizenship statute, 28 U.S.C. § 1332, and by the fact that the claim of each plaintiff exceeds the sum of \$75,000.00 exclusive of costs and interests.

3. This Court has jurisdiction over Defendants inasmuch as Defendants, acting on its own and/or through its agents, wholesalers, distributors, sellers, franchisees, licensees and sub-licensees have carried out business transactions and/or have committed torturous acts within the commonwealth of Puerto Rico.

III. PARTIES

4. Plaintiff Jennifer Garcia is the mother of deceased Joshua Méndez García. Plaintiff Nelson Ayala is the brother of deceased Joshua Mendez García. Both plaintiffs are residents and domiciled of Levittown Lakes, Paseo Deleite 1095, Toa Baja, PR 00949.

5. Co-defendant **KIA MOTORS CORPORATION** is a automobile manufacturer headquartered in Seoul, South Korea. KIA MOTORS CORPORATION is the company that manufactured, designed, assembled, tested, marketed, sold, advertised and/ or distributed the KIA RIO, 2016, VIN#KNADM4A36G6657184. KIA Motors Corporation's headquarters are located in: 12 Heolleung-ro, Seocho-gu, Seoul, Seoul, KR.

6. Co-defendant **HYUNDAI MOTOR COMPANY** is a South Korean multinational automotive manufacturer headquartered in Seoul, which owns KIA Motors Corporation. Hyundai Motor Company's headquarters are located in: 12 Heolleung-Ro, Seocho-gu, Seoul 06797, KR.

7. Co-Defendants **JOHN DOE** and **JANE DOE** are unknown natural persons, domiciled in other place than Puerto Rico, who are responsible for any damages caused to plaintiffs. Once their true names are known, they will be substituted.

8. **FOREIGN COMPANIES A, B & C** are fictitious names domiciled in other place than Puerto Rico, which represent any entities jointly responsible for the damages caused to plaintiff. Once their true names are known, they will be substituted.

IV. FACTS

9. On February 17, 2018 at approximately 2:00 a.m., plaintiff Nelson Ayala was driving his vehicle, a KIA RIO, 2016, VIN#KNADM4A36G6657184, on Sabana Seca Avenue, Levittown, in Bayamon when he lost control of the vehicle and hit a light post. Plaintiff Nelson Ayala was accompanied by his minor brother, Joshua Ayala.

10. Plaintiff Nelson Ayala lost consciousness and by the time he woke up, paramedics from Fast Ambulance were at the scene. Minor Joshua Ayala was stuck in the passenger's front seat and was not able to move or exit the vehicle.

11. Desperately, plaintiff Nelson Ayala tried to help his brother to exit the car and as a result he suffered scratches, open wounds and bruises during his efforts.

12. At some point between 2:30am and 4:00am, plaintiff Nelson Ayala noticed that an engine fire started on his vehicle. In despair, he started yelling for help, but nobody was able to help his brother exit the vehicle. He could not find his phone inside the car and requested help from a lady that stopped at the scene.

13. A phone call was made to the 911 and they were able to contact the police and

the fire department. Meanwhile, the fire was increasing, and minor Joshua Ayala was crying and yelling for help inside the vehicle. The minor Joshua Ayala was burning inside the KIA vehicle.

14. At approximately 4:00am plaintiff Jennifer García arrived at the scene and found his son Nelson Méndez with a policeman and the vehicle in flames. At that point she thought her minor son, Joshua Ayala was somewhere around the area. To her shock and horror, she learned that her minor son Joshua Ayala was inside of the burning car.

15. The firefighters arrived at the scene at around 4:50am. By that time, the entire car was already in flames and Joshua Ayala was still inside the car.

16. Joshua Ayala died calcined inside the vehicle.

V. COUNTS

COUNT I: STRICT LIABILITY

17. Defendants KIA MOTOR AND/OR HYUNDAI MOTOR manufactured, designed, assembled, tested, marketed, sold, advertised, and /or distributed the KIA RIO, 2016, VIN#KNADM4A36G6657184, owned by plaintiff Nelson Ayala.

18. The vehicle, KIA RIO, 2016, VIN#KNADM4A36G6657184, contained a defective and unsafe design and/or electrical malfunction that caused engine fire of the vehicle, therefore constituting a product unsafely dangerous for normal use due to its

defective design and manufacture.

19. As a direct and proximate result of all co-defendants designing, manufacturing, assembling, testing, marketing, selling, advertising and /or otherwise distributing the KIA RIO, 2016, VIN#KNADM4A36G6657184, Plaintiffs suffered serious damages.

20. Co-defendants are strictly liable to Plaintiffs pursuant to Article 1802 of the Puerto Rico Civil Code, as well as pursuant to other applicable laws, statutes and regulations.

COUNT II: NEGLIGENCE

21. At all times, it was the duty of the Defendants to use reasonable care in the designing, manufacturing, assembling, testing, marketing, selling, advertising, warning, and /or otherwise distributing the KIA RIO, 2016, VIN#KNADM4A36G6657184.

22. Contrary to their duty, the Defendants were responsible of one or more of the following careless and negligent acts and/ or omissions:

a. Failed to adequately and properly test and inspect the accessories incorporated into the KIA RIO, 2016, VIN#KNADM4A36G6657184, so as to ascertain whether or not it was safe and proper for the purpose for which was designed, manufactured and sold;

b. Failed to utilize and/or implement a reasonably safe design in the manufacture, installation and/ or functioning of the electronic throttle incorporated

into the KIA RIO, 2016, VIN#KNADM4A36G6657184

c. Failed to install a safe system that would avoid an engine fire.

23. The Defendants, therefore, are liable to Plaintiffs pursuant to Article 1802 of the Puerto Rico Civil Code, and any other applicable laws, statutes and regulations.

VI. DAMAGES

24. Due to the negligent acts and/or omissions of the Defendants, Joshua Méndez García suffered a slow vicious death. His pain and suffering is hereby claim by his mother.

25. Due to the negligent acts and/or omissions of the Defendants, plaintiff Jennifer Garcia suffered and continues to suffer:

- a. Excruciating mental anguishes due to the loss of her son, Joshua Méndez García.
- b. Recurring nightmares, loss of appetite, depression and exacerbation of pre-existing conditions.
- c. Loss of love and care since Joshua lived with plaintiff García.

26. Due to the negligent acts and/or omissions of the Defendants, plaintiff Nelson Ayala suffered and continues to suffer:

- a. Excruciating mental anguishes due to the loss of his brother, Joshua Méndez García.
- b. Emotional distress and continuous mental anguishes since he had to watch his brother died calcined inside his vehicle. He was desperate and hopeless because he could not help his brother.

VII. PRAYER FOR RELIEF:

WHEREFORE, PLAINTIFFS demand judgment against defendants, jointly, in the sum of **\$10,000,000.00**, together with the interests thereon from the date of the filing of the present complaint, costs and reasonable attorney's fees.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 15th day of February, 2019.

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